REMARKS/ARGUMENTS

Claims 1-4, 6-12, 14-18, 20, 21, 23 and 24 are pending in the present application. Claim 21 has been amended herewith. The listing of the claims beginning on page 2 of this response replaces all prior versions, and listings, of claims in the application.

I. 35 U.S.C. § 103, Obviousness

Claims 1-3, 6-11, 14-17, 20 and 23 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Goldstein et al. (U.S. Publication No. 2003/0221167), hereinafter "Goldstein", Pagan (U.S. Publication No. 2003/0221167), hereinafter "Pagan" and IBM Technical Disclosure Bulletin NNRD455178, published March 2002, hereinafter "IBM". This rejection is respectfully traversed.

The Examiner bears the burden of establishing a prima facie case of obviousness based on prior art when rejecting claims under 35 U.S.C. § 103. *In re Fritch*, 972 F.2d 1260, 23 U.S.P.Q.2d 1780 (Fed. Cir. 1992). *In re Oetiker*, 977 F.2d 1443, 1445, 24 USPQ2d 1443, 1444 (Fed. Cir. 1992). Only if that burden is met, does the burden of coming forward with evidence or argument shift to the applicant. *Id.* All words in a claim must be considered in judging the patentability of that claim against the prior art. MPEP 2143.03; *In re Wilson*, 424 F.2d 1382, 1385, 165 USPQ 494, 496 (CCPA 1970). If the Examiner fails to establish a prima facie case, the rejection is improper and will be overturned. *In re Fine*, 837 F.2d 1071, 1074, 5 USPQ2d 1596, 1598 (Fed. Cir. 1988). In the absence of a proper *prima facie* case of obviousness, an applicant who complies with the other statutory requirements is entitled to a patent. *See In re Oetiker*, 977 F.2d 1443, 1445, 24 USPQ2d 1443, 1444 (Fed. Cir. 1992).

With respect to Claim 1, such claim recites, "displaying, in response to receiving an initial user input indicating that the new document is to be displayed, a menu of commands associated with opening the new document including: (i) a current browser window command, (ii) a new browser window command, and (iii) a selected browser window command". As can be seen, a menu including three different types of *commands* is displayed in response to receiving user input indicating that a new document is to be displayed. The displayed menu of commands includes (i) a *current* browser window command, (ii) a *new* browser window command, and (iii) a *selected* browser window command.

The Examiner alleges that Goldstein teaches all such aspects of Claim 1 at Figure 3, Figure 8 and paragraph [0096]. Applicant shows that there, Goldstein states:

> [0096] Referring to FIG. 8, upon the selection of an additional content item, the software determines whether there exist other, open Custom Selection Windows. If so, the software presents a Select Target Window 52, that displays an Open Window List 54 of all open Custom Selection Windows, which are preferably identified by the Description 30 entered by the User when creating the windows. Preferably, **the User can select an open window from the Open Window List 54**. The Select Target Window 52 **also preferably provides a New Window 56 button, icon or menu item to allow the User to place the content item in its own Custom Selection Window**, if desired.

As can be seen, here Goldstein describes that a user can make one of two choices, either: (i) selecting an 'existing' open custom window, or (ii) selecting a 'new' custom window. Importantly, Goldstein's 'existing' open custom window selection option is with respect to 'existing Amplification windows' which have previously been specially-opened with the 'Amplification' open option (Goldstein paragraph [0082]). This 'existing' list, and the Goldstein depictions in Figures 3 and 8, does not include a command being displayed that allows to open a document in the 'existing' window – which in this example would be the window depicted in Goldstein's Figure 3 from which the user provided input indicating a desire to display a selected item. Restated, Goldstein does not describe in either this paragraph [0082] nor in Figures 3 and 8 an ability for the user to open a selected document in the window depicted in Figure 3 ("The New York Times on the Web" display window) – which is the window that the use invoked an action in. Rather, Goldstein only contemplates a user displaying content in either an existing custom window or a new custom window – but not in the same window for which the user is making content selection. In contrast, Claim 1 contemplates *three* distinct types of commands being displayed in a menu – new, existing and selected. Goldstein only provides for selecting amongst *two* types – existing open custom windows and new custom windows. Thus, it is urged that Claim 1 has been erroneously rejected due to such prima facie obviousness deficiency with respect to three types of commands being displayed in a menu of commands.

Further with respect to Claim 1, such claim recites "concurrently displaying, in response to receiving another user input selecting the selected browser window command from the menu of commands, a list of currently active browser windows including an indication of a presently displayed document in each respective browser window in the list of currently active browser

windows, wherein the list of currently active browser windows, including the indication of the presently displayed document in each respective browser window in the list of currently active browser windows, that is concurrently displayed is a list consisting of all currently active browser windows". As can be seen, in response to receiving another input selecting the selected browser window command from the menu of commands, a list of currently active browser windows, including an indication of a presently displayed document in each respective browser window in the list of currently active browser windows, is *concurrently displayed*. In addition, the list that is concurrently displayed is a list consisting of *all currently active browser windows*.

The Examiner acknowledges that Goldstein does not teach such concurrent display step with respect to an active browser list. However, the Examiner alleges that Pagan teaches all such concurrent display features at paragraph [0019] in conjunction with Figure 2. Applicant shows that there, Pagan states:

> [0019] As shown in FIG. 2, screen space 210 can host the graphical user interface of an application. The operation of the application can cause the creation and **display of multiple document windows 220A, 220B, 220C, 220D, 220E. Notably, each open document window 220A, 220B, 220C, 220D, 220E further can include a menu bar 230**, the creation of which is well-known in the art of windowing application development. In accordance with the inventive arrangements, a pull-down menu item of the menu-bar can include a menu listing 240 of open document windows associated with the application. As will be apparent from FIG. 2, the menu listing 240 further can indicate the currently activated open document window.

As can be seen, this cited Pagan passage describes that certain *document* windows are displayed. This cited passage does not describe that *a list of all currently active browser windows is concurrent displayed with a menu of commands*. For example, there is no indication that 'all' currently active browser windows, or a list directed thereto, are displayed. Instead, certain open *document* windows are displayed. Importantly, there is no 'list' of *browser* windows. Instead, certain *document* windows are displayed, and 'documents' are not 'browsers' (Pagan paragraphs [0005] and [0008]). As a further example, there is no *concurrent* display of a list of all active browser windows with a menu of commands. Instead, certain document windows are concurrently displayed with a list of documents. Thus, it is further urged that Claim 1 has been erroneously rejected due to such additional prima facie obviousness deficiencies.

Still further with respect to Claim 1, such claim recites "replacing, in response to a user selection of a browser window from the list of currently active browser windows, a document displayed in the browser window with the new document". As can be seen, a document that is displayed in the browser window *is replaced with the new document.*

The Examiner alleges that Goldstein teaches such document replacement at Goldstein paragraph [0097] in conjunction with Figure 6. Applicant shows that there, Goldstein states:

> [0097] Upon the selection of an open Custom Selection Window as the target, the software displays the selected Custom Selection Window 34, **which includes the frame 48 occupied by the existing content item 18** and a blank frame 50 (as shown in FIG. 6). If the Custom Selection Window 34 contains more than one blank frame, the software then preferably pauses and prompts the User to select the blank frame in which to place the additional content item. The User can select the desired blank frame by clicking within the border of the frame. If the Custom Selection Window 34 contains only one blank frame then the software may automatically place the additional content item within that frame.

As can be seen, upon selection of an open Custom Selection Window as the target, the document currently being displayed in such window continues to be displayed (shown in Goldstein Figure 7 as ***existing*** *content item 18*). This ***existing*** *content item 18* is not 'replaced', as provided by the features of Claim 1. Indeed, Goldstein is keen on maintaining the existing content when selecting new content to also be displayed when selecting the open Custom Selection Window, and specially provides such functionality through its special user preference features that allow a user to select how to maintain the display of preexisting content through the special Frame Toolbar 38, including New Frame Bottom, New Frame Top, New Frame Right and New Frame Left icons 40, 42, 44 and 46 of Figure 6 (as further described by Goldstein in paragraph [0095]). The existing document being displayed in such window is not 'replaced', as claimed. Thus, it is further urged that Claim 1 has been erroneously rejected due to such additional prima facie obviousness deficiencies.

It is further noted that to the extent the cited IBM reference describes a prior art technique for replacing window content, such content replacement is expressly disparaged by IBM, which teaches away from such content replacement due to system inefficiencies and undesirable overhead (IBM page 1) by instead providing ICONS for which links can be dragged & dropped onto. IBM expressly desires elimination of window clutter through use of these ICONs in lieu of

maintaining a display of windows – and accordingly there is no 'replacement' of what is being displayed by such drag/drop action. Instead, a new browser window is opened (IBM page 2). While it may be true that subsequent links that are dragged to this same ICON will load in that same window, the window is not displayed when the link is dragged to the ICON, and thus there is no 'replacing' of a document currently being displayed in a window with a new document as only the ICON is currently displayed when such user action is invoked. Thus, IBM does not overcome the prima facie obviousness deficiencies identified hereinabove.

It is further noted that due to the IBM disparaging comments regarding a prior art replacement technique, a person of ordinary skill in the art would not have been motivated to modify the teachings of Goldstein with a displayed document replacement technique that IBM expressly teaches away from – further evidencing non-obviousness of Claim 1. This lack of motivation to make such a modification by a person of ordinary skill in the art can also be seen by Goldstein's strong desire to *maintain the display of existing content*, as previously shown. Thus, it is further urged that Claim 1 is non-obvious in view of the cited references.

Applicant initially traverses the rejection of Claims 2, 3 and 6 for reasons given above with respect to Claim 1.

Further with respect to Claim 2, such claim recites "promoting the browser window to a top of a window hierarchy such that the browser window is subsequently used when displaying another new document when the current browser window command is selected during a subsequent opening of the another new document". As can be seen, the user selected browser window is promoted to a top of a window hierarchy such that the browser window is subsequently used when displaying another new document *when the current browser window command is selected* during a subsequent opening of another new document.

The Examiner alleges that Pagan teaches all such browser window promotion features at paragraph [0005]. Applicant shows that there, Pagan states:

> [0005] Generally, the operation of both SDI and MDI based applications include the opening and display of one or more document windows in which documents such as word processing documents, spreadsheet documents, computer source code documents, image documents and the like can be processed. Of course, in many operating systems which support GUI applications, only a single document window can be active at any one time. To activate a particular document window, typically the document window can be selected graphically with a pointing device, or by pull-down menu. Other user interface

> mechanisms exist for cycling between document windows, including window toggling operations and window listing operations.

As can be seen, this cited passage describes how a 'document' can be opened. This cited passage regarding opening a document does not describe: (i) a browser window, (ii) a window hierarchy, (iii) promoting a browser window to a top of a window hierarchy, (iv) any action/steps that are performed during a subsequent opening of another *new* document, or (v) a 'current' browser window command being selected during a subsequent opening of another new document. Instead, Pagan describes that a document window can be selected graphically with a pointing device or pull-down menu, and the cycling between documents. Thus, it is further urged that Claim 2 has been erroneously rejected due to these additional prima facie obviousness deficiencies.

It is further noted that Pagan paragraph [0017] also does not overcome the above described prima facie obviousness deficiencies. For example, this passage states:

> [0017] The present invention is a method, system and apparatus for manipulating multiple open document windows in an application through the pull-down menu of any one of the multiple open document windows. In accordance with the present invention, the pull-down menu bar of each open document window in an application can be configured with a pull-down menu list of open document windows associated with the application. Each listed document window can have a corresponding window manipulation interactive user interface element, for example a button. In this way, a selected open document window in the pull-down menu list can be manipulated through another open document window without requiring the activation of the selected open document window.

This cited passage describes that another given document can be manipulated using the current open document window without having to 'go to' the document window of such another given document. Only display characteristics with respect to the *current* document window are described. In contrast, Claim 2 is directed to *what window is used when displaying another <u>new</u> document*. This cited Pagan passage describes eliminating a need for displaying another document by allowing such another document to be manipulated using the window of the current document - hence avoiding display of the another document window – which is the key inventive feature of Pagan (paragraphs [0007]-[0009] et seq.). Thus, it is further urged that Claim 2 is non-obvious in view of the cited references.

Further with respect to Claim 3, such claim recites, "wherein the indication is a document name from a title bar for the each respective browser window". As can be seen, Claim 3 is directed to particular characteristics of the claimed 'indication', which per Claim 1 (of which Claim 3 ultimately depends upon) is part of a 'list of currently active browser windows' (see Claim 1 – "a list of currently active browser windows including *an **indication** of a presently displayed document in **each** respective browser window in the list of currently active browser windows*"). Importantly, the claimed document name indication of Claim 3 is part of a list that indicates *documents displayed in **each** currently active browser window*.

The Examiner alleges that IBM teaches all aspects of Claim 3 in the 2nd paragraph since there it is alleged to describe a pop-up URL/title that is displayed when a user hovers over an icon. Applicant urges that such pop-up URL/title is different than that claimed 'indicator' since it is not part of a list of all currently active browser windows, as is the claimed 'indication'. Instead, this pop-up information pertains to a single window. Thus, it is further urged that Claim 3 has been erroneously rejected due to such additional prima facie obviousness deficiencies.

Applicant initially traverses the rejection of Claims 6-11, 14-17, 20 and 23 for similar reasons to those given above with respect to Claim 1.

Applicant further traverses the rejection of Claims 10 and 16 for similar reasons to those given above with respect to Claim 2.

Applicant further traverses the rejection of Claims 11 and 17 for similar reasons to those given above with respect to Claim 3.

Therefore, the rejection of Claims 1-3, 6-11, 14-17, 20 and 23 under 35 U.S.C. § 103(a) has been overcome.

II. 35 U.S.C. § 103, Obviousness

Claims 4, 12 and 18 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Goldstein, Pagan, IBM and Ludolph et al. (U.S. Patent No. 6,133,898), hereinafter "Ludolph". This rejection is respectfully traversed for similar reasons to those given above with respect to Claim 1, as the newly cited reference to Ludolph does not overcome the prima facie obviousness deficiencies identified hereinabove with respect to claim.

Therefore, the rejection of Claims 4, 12 and 18 under 35 U.S.C. § 103(a) has been overcome.

III. 35 U.S.C. § 103, Obviousness

Claim 24 stands rejected under 35 U.S.C. § 103(a) as being unpatentable over Goldstein, Pagan, IBM and Wishoff (U.S. Publication No. 2002/0051017), hereinafter "Wishoff". This rejection is respectfully traversed.

Applicant initially traverses the rejection of Claim 24 for similar reasons to those given above with respect to Claim 1, as the newly cited reference to Wishoff does not overcome the prima facie obviousness deficiencies identified hereinabove with respect to claim.

Further with respect to Claim 24, it is noted that the Wishoff history menu is with respect to a list of documents that a user has loaded, and not a list of currently active browser windows, as claimed. In addition, this Wishoff history menu is not a list of currently active browser windows that is next displayed in response to subsequent user input. Instead, it is a list of documents that a user has loaded. Thus, it is further urged that Claim 24 is non-obvious in view of the cited references.

Therefore, the rejection of Claim 24 under 35 U.S.C. § 103(a) has been overcome.

IV. Conclusion

It is respectfully urged that the subject application is patentable over the cited references and is now in condition for allowance. The Examiner is invited to call the undersigned at the below-listed telephone number if in the opinion of the Examiner such a telephone conference would expedite or aid the prosecution and examination of this application.

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Respectfully submitted,

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